

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

William J.R. Embrey,

Plaintiff,

vs.

Wade H. Warren, Chief U.S. Probation
Officer; Chris Ambuehl, U.S. Probation
Officer; and the U.S. Probation Department
at Fargo,

Defendants.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 3:17-cv-033

The Plaintiff, an inmate at the incarcerated in the federal correctional facility located in Ashland, Kentucky, initiated this *pro se* civil rights action on February 13, 2017. See Docket No. 1. After screening the amended complaint as required by 28 U.S.C. § 1915A, Magistrate Judge Charles S. Miller, Jr. issued a Report and Recommendation on June 5, 2017, in which he recommended that the complaint be dismissed and the outstanding motions be denied. See Docket No. 24. The parties were given fourteen days to file any objections to the Report and Recommendation. The Plaintiff filed an objection to the report and recommendation on June 15, 2017. See Docket No. 25.

The Court has carefully reviewed the Report and Recommendation, relevant case law, the Plaintiff's objection, and the entire record, and finds the Report and Recommendation to be persuasive. The Court finds the Plaintiff's objection to Judge Miller's Report and Recommendation unpersuasive. The Plaintiff fails to state any cognizable claims under 42 U.S.C. § 1983. The Court's ruling in In re: William J.R. Embrey, No. 1:17-mc-003 (Docket. No. 5) that it will not consent to a transfer of jurisdiction over the Plaintiff's supervised release moots any claims against the probation

office and its officers. In making that ruling the Court found that “any prior communications of the United States Probation Office on its behalf, are limited to the withholding of consent to the transfer of jurisdiction and supervision pursuant to 18 U.S.C. § 3605.” As Judge Miller noted, any other pre-release or supervision questions are matters for the BOP and the Western District of Missouri to decide. In addition, amending the complaint would not cure the deficiencies noted by Judge Miller in his Report and Recommendation.

Accordingly, the Court **ADOPTS** the Report and Recommendation (Docket No. 24) in its entirety and **ORDERS** as follows:

1. The Plaintiff’s complaint at Docket No. 6 and its supplements at Docket. Nos. 9, 11, and 17 are **DISMISSED WITHOUT PREJUDICE** pursuant to 18 U.S.C. § 1915A(b)(1) for failure to state a claim upon which relief can be granted.
2. The Plaintiff’s outstanding motions at Docket. Nos. 13, 15, 18, 21, and 26 are **DENIED as moot.**

IT IS SO ORDERED.

Dated this 21st day of June, 2017.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court